

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \* \* \*

RAYMOND PADILLA,

Plaintiff,

v.

STATE OF NEVADA, et al.,

Defendants.

3:08-cv-00410-LRH-RAM

ORDER

Before this Court is the Report and Recommendation of U.S. Magistrate Judge Robert A. McQuaid (#46<sup>1</sup>) entered on June 3, 2011, recommending granting in part and denying in part Defendants' Motion to Dismiss (#37) filed on November 30, 2010, and further recommending that Plaintiff's Motion for Temporary Restraining Order (#31) and Motion for Preliminary Injunction (#32) be denied. Plaintiff filed his Objections to Magistrate Judge's Report and Recommendation (#47) on June 13, 2011. Defendants did not file an opposition to Plaintiff's Objections. This action was referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 1B 1-4 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has conducted its *de novo* review in this case, has fully considered the objections of the Plaintiff, the pleadings and memoranda of the parties and other relevant matters of record pursuant

<sup>1</sup>Refers to court's docket number.

1 to 28 U.S.C. § 636 (b) (1) (B) and Local Rule IB 3-2. The Court determines that the Magistrate  
2 Judge's Report and Recommendation (#46) entered on June 3, 2011, should be adopted and accepted.

3 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation (#46)  
4 entered on June 3, 2011, is adopted and accepted.

5 IT IS FURTHER ORDERED that Defendant's Motion to Dismiss (#37) is GRANTED IN  
6 PART AND DENIED IN PART as follows:

- 7 ● The claims against the State of Nevada and NDOC are DISMISSED with prejudice;
- 8 ● The claims asserted against Defendants under 42 U.S.C. § 1983 in their official capacities  
9 with respect to damages are DISMISSED with prejudice;
- 10 ● Plaintiff's claim that Defendants violated his rights under the Equal Protection Clause is  
11 DISMISSED with prejudice;
- 12 ● The claims asserted against Defendants Guinn, Gibbons, Mastro, Miller, Whorton,  
13 Crawford, Skolnik, Cox, Irvin, Oxborrow, Weiss, Drain, and Peltzer are DISMISSED with  
14 prejudice;
- 15 ● The motion to dismiss on the ground of claim preclusion is DENIED;
- 16 ● The motion to dismiss on the ground of qualified immunity is DENIED; and
- 17 ● Defendants McDaniel, Brooks, Endel, D'Amico, and Bannister are ordered to answer  
18 Plaintiff's Amended Complaint within fourteen (14) days after the entry of this order.

19 IT IS FURTHER ORDERED that Plaintiff's Motion for Temporary Restraining Order (#31)  
20 and Motion for Preliminary Injunction (#32) are DENIED.

21 IT IS SO ORDERED.

22 DATED this 12th day of July, 2011.



23  
24  
25 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE